



AT  
Ifw

82869/KNM  
Customer No. 01333

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of

David A. Novais et al.

A SYSTEM AND PROCESS FOR  
OFFERING IMAGING SERVICES

Serial No. 09/918,287

Filed 30 July 2001

Group Art Unit: 2612

Examiner: Daniel M. Pasiewicz

I hereby certify that this correspondence is being  
deposited today with the United States Postal Service  
as first class mail in an envelope addressed to  
Commissioner For Patents, P.O. Box 1450, Alexandria,  
VA 22313-1450.

*Karen J. Wacenske*  
Karen J. Wacenske

1-23-07  
Date

Mail Stop APPEAL BRIEF-PATENTS  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**REPLY BRIEF IN RESPONSE TO EXAMINER'S ANSWER**

This is a reply to the Examiner's Answer of December 12, 2006, regarding the pending rejection of all pending claims 1-16 as set forth in the final Office Action mailed February 24, 2006, and the Advisory Action mailed June 16, 2006. Consideration of the remarks herein by the Board of Appeals is respectfully requested.

## **Table Of Contents**

<u>Table Of Contents</u> .....	i
<u>Real Party In Interest</u> .....	1
<u>Related Appeals And Interferences</u> .....	1
<u>Status Of The Claims</u> .....	1
<u>Status Of Amendments</u> .....	1
<u>Summary of Claimed Subject Matter</u> .....	2
<u>Grounds of Rejection to be Reviewed on Appeal</u> .....	5
<u>Arguments</u> .....	6
<u>Summary</u> .....	10
<u>Conclusion</u> .....	11
<u>Appendix I - Claims on Appeal</u> .....	12



82869/KNM  
Customer No. 01333

### **APPELLANT'S REPLY BRIEF ON APPEAL**

Appellants hereby appeal to the Board of Patent Appeals and Interferences from the Examiner's Final Rejection of claims, which was contained in the Office Action mailed February 24, 2006, the Advisory Action mailed June 16, 2006, and repeated in the Examiner's Answer of December 12, 2006.

A timely Notice of Appeal was filed June 22, 2006, with a request for a one-month extension of time.

### **Real Party In Interest**

The real party in interest is Eastman Kodak Company, assignee of the entire interest of each and every inventor.

### **Related Appeals And Interferences**

No appeals or interferences are known which will directly affect, be directly affected by, or have bearing on the decision of the Board in the pending appeal.

### **Status Of The Claims**

Claims 1-16 are pending, stand finally rejected, and are the subject of this appeal.

### **Status Of Amendments**

Claims 1-16 as last presented in the response mailed November 21, 2005, are on appeal. No subsequent amendments to the claims have been made.

### **Summary of Claimed Subject Matter**

Independent claim 1 recites: A method of offering imaging services to a customer, the method comprising: offering at least one imaging service to a customer for selection prior to the customer's attendance at an entertainment event or while the customer is at the entertainment event (see page 2, lines 8-10; page 4, lines 24-27; and page 8, lines 11-14); recording an imaging service selected by the customer and assigning an identification code to the customer selection, said identification code including at least information on the selected imaging service and information inputted by the customer on a seating location of the customer at the entertainment event (see page 2, lines 10-14; page 6, lines 4-9; page 8, lines 9-10; and page 9, lines 14-19); and supplying images to the customer based on the selected imaging service, said images including images of participants in the entertainment event and images of at least the customer at said seating location while viewing the entertainment event (see page 7, lines 9-17; page 10, lines 13-22; and page 9, lines 20-27).

Independent claim 8 recites: An imaging services kiosk 17 comprising: an imaging services display section 52 adapted to display a menu of imaging services to a customer (see Fig. 3; and page 2, lines 18-20); and a customer input section 50 adapted to permit a customer to select, either prior to attendance at an entertainment event or while in attendance at the event, an imaging service from the menu of imaging services and enter seating information representative of a seating location of the customer at the entertainment event for use in directing an image capture device toward the seating location, such that said selected imaging service comprises creating images for the customer which includes at least one image of participants at the entertainment event and at least one image of the customer while viewing the entertainment event (see Fig. 3; page 2, lines 8-10, 20-23, and 23-26; page 8, lines 9-10, and 11-25; and page 9, lines 8-17, and 18-27).

Independent claim 10 recites: An imaging services kiosk 17 comprising: an imaging services display section 52 adapted to display a menu of imaging

services to a customer, said imaging services being associated with an entertainment event which will be attended by the customer (see Fig. 3; page 2, lines 27-30; and page 8, lines 11-25); an image capture device 56 which is adapted to capture an image of the customer (see Fig. 3; page 2, lines 30-31; page 6, lines 19-23; page 7, lines 4-8; and page 10, lines 5-12); and a customer input section 50 adapted to permit the customer to select, either prior to attendance at an entertainment event or while in attendance at the event, an imaging service from the menu of imaging services and enter seating information representative of a seating location of the customer at the entertainment event for use in directing the image capture device toward the seating location, such that said selected imaging service comprises creating a composite image which includes at least one image of the entertainment event and/or at least one image of participants at the entertainment event combined with the customer image captured by the image capture device (see Figs. 2A and 3; page 2, lines 8-10 and 31-32; page 2, line 32, - page 3, line 1; page 3, lines 1-4; page 5, lines 20-23 and 25-30; page 6, lines 4-7 and 19-23; page 7, lines 4-8; and page 8, lines 9-10; page 9, lines 8-27; and page 10, lines 5-12).

Independent claim 12 recites: An imaging services kiosk 17 comprising: an imaging services display section 52 adapted to display a menu of imaging services to a customer, said imaging services being associated with an entertainment event which will be attended by the customer (see Fig. 3; page 3, lines 5-8; and page 8, lines 11-25); an image capture device 56 which is adapted to capture an image of the customer (see Fig. 3; page 3, lines 8-9; and page 6, lines 19-21); an input port 54 to permit an uploading of customer digital images into said kiosk (see Fig. 3; page 3, lines 9-10; and page 10, lines 5-12); and a customer input section 50 adapted to permit the customer to select, either prior to attendance at an entertainment event or while in attendance at the event, an imaging service from the menu of imaging services and enter seating information representative of a seating location of the customer at the entertainment event for use in directing the image capture device toward the seating location, such that said selected imaging service comprises creating a composite image, said composite image

including at least one image of the entertainment event and/or at least one image of participants at the entertainment event combined with at least one of the customer image captured by the image capture device or the uploaded digital image (see Fig. 3; page 2, lines 8-10; page 3, lines 10-11 and 12-16; page 5, lines 4-7; page 6, lines 19-23; page 7, lines 4-8; and page 10, lines 5-12).

Independent claim 16 recites: A method of displaying images and offering imaging services to a customer while at an entertainment event (see page 3, lines 17-19), the method comprising: displaying images to a customer at an entertainment event on an interactive display screen 500 accessible at a seating location of the customer, said displayed images comprising at least one of images of participants in the entertainment event and images of the customer while viewing the entertainment event (see Fig. 5; page 3, lines 19-23; and page 10, line 30, - page 11, line 19); and offering an interactive selection session to the customer to permit the customer, while seated at the seating location, to select a desired image or images from the displayed images and select a desired image product representative of the desired image or images (see Fig. 5; page 3, lines 23-26; page 7, lines 19-22; and page 10, line 30, - page 11, line 19).

Appellant is not aware of any claims including means-plus-function language.

**Grounds of Rejection to be Reviewed on Appeal**

The following issues are presented for review by the Board of Patent Appeals and Interferences:

1. rejection of claims 1-7 under 35 U.S.C. 102(e) over Weston et al., US Patent 6,608,563;
2. rejection of claims 8-15 under 35 U.S.C. 103(a) over Blank, US Patent 5,469,536, in view of Gluck, US Patent 6,532,345, and further in view of Schniberg et al., US Patent Application Publication No. US 2002/0085762A1; and
3. rejection of claim 16 under 35 U.S.C. 103(a) over Blank, US Patent 5,469,536, in view of Gluck, US Patent 6,532,345, and further in view of Showghi et al., US Patent 6,473,739.

## **Arguments**

### **1. Rejection of claims 1-7 under 35 U.S.C. §102(e) over Weston et al.**

Applicants maintain that the Patent Office has failed to show each and every feature of the claimed invention as set forth at least in independent claim 1, from which claims 2-7 depend, is taught by the applied reference of Weston et al. As stated by the Federal Circuit in *SmithKline Beecham Corp. v. Apotex Corp.* 403 F.3d 1331 at 1343 (Fed. Cir. 2005): “A patent is invalid for anticipation if a single prior art reference discloses each and every limitation of the claimed invention.” The Patent Office has failed to show each and every feature of the claimed invention is set forth in a reference.

At page 27 of the Reply Brief, the Examiner states:

It is not claimed that the “seating location that the customer must input is an assigned seating location within the venue of the event, to which the customer was assigned when the ticket to the event was purchased”. Also, it is not claimed that the customer must explicitly enter a seating location. What is claimed is that the customer must input “**information on** a seating location”, which in Weston is the customer inputted comic book choice which has corresponding pre-determined locations for image capture.

Applicants address both these points as follows.

The Examiner is correct the claims do not explicitly state the seat is an “assigned” seating location. Whether or not the location is pre-assigned, the claims require entry of a definite seating location, in effect, an assigned location. Thus, if the seating location is not pre-assigned by ticket purchase, the customer must have chosen a known seating location, even if chosen at the event, in order to input the seating location into the system. Knowledge of the actual seat of the customer is required.

With regard to the argument of the Examiner that the customer need not enter a seating location, but information on a seating location, Applicants respectfully submit the Examiner is arguing semantics. A review of the specification at page 9, lines 8-11, for example, discusses entry of seat



information by entering a seat number from a ticket stub, or passing a ticket stub under a scanner. Thus, information on a seating location can include information directly gathered from scanning of a ticket, for example, a bar code on the ticket. The specification read as a whole clearly indicates a known, specified, distinct seating location must be identified by the customer. In contrast, Weston et al. allows selection of a souvenir, which selection directs where the customer must appear for an image to be taken. The images taken in Weston et al. are not “seating locations” because the images may not be of the customer seated, but are typically of the customer posed or partaking in a particular activity crucial to the selected souvenir story line. See Weston et al. at col. 5, line 40, through col. 6, line 17, for example. Weston et al. also requires identification of the participant/customer and chosen souvenir package at the location in order to take an image, whereas the claimed invention has no such requirement, some images possibly being taken when the customer is not at the required location.

Further, the claimed invention requires some images of the customer “at said seating location while viewing the entertainment event.” Weston et al. takes images of a customer participating in an entertaining event, not viewing an event.

The invention as set forth in claims 1-7 require entry of information on a seating location, and taking of images of the customer viewing the entertainment event while at that location, which is not disclosed or suggested by Weston et al. Weston et al. requires only customer selection of a souvenir (imaging service), followed by appearance at souvenir-designated locations for image-taking while participating in an event. For at least the above reasons, Applicants submit the Examiner has not made a prima facie case, not every element of the claimed invention being taught by Weston et al. For at least the above reasons, Appellants assert the rejection of claims 1-7 under 35 USC §102(e) over Weston et al. should be reversed.

## 2. Rejections under 35 USC 103(a)

### A. Rejection of claims 8-15 under 35 U.S.C. §103(a) over Blank, US Patent 5,469,536, in view of Gluck, US Patent 6,532,345, and further in view of Schniberg et al., US Patent Application Publication No. US 2002/0085762A1

#### 1. Claims 8-11

The Patent Office has failed to establish a *prima facie* case of obviousness against Appellants' claimed invention as set forth in claims 8-11 because the Patent Office has failed to show any reference or combination of references that teaches or suggests all the limitations of the claims.

The Examiner argues that Schniberg et al. teaches directing an image capture device toward a seating location at paragraph 74, which “discloses that a ‘real time’ picture of the spectator at the seating location may be viewed via the web-based system.” The Examiner further relies on Fig. 1 as showing the camera focused on a single spectator.

Applicants note that a reference must be read for all it teaches. References in Schniberg et al. to Figs. 1 and 2 in paragraphs 0055 and 0061-0062, respectively, clearly state that the accessed image is a prior-taken image of the spectator. The same description is offered with reference to Fig. 3, at paragraph 0068. In reviewing paragraph 0074 referenced by the Examiner, “real time” appears twice in the same sentence as follows:

In accordance with a preferred embodiment of the present invention, a spectator or any other person having access to ticket **410** or who has otherwise received the identification code **418**, such as via a real time telephone call or any other suitable communication, may view in real time or thereafter any picture taken of a spectator wearing a spectator identifier ...

The first use of “real time” refers to a communication between the spectator and another person regarding the ticket or identification code assigned to the spectator. The second use of real time must refer to the same time period, that is, during the communication. The statement is that during the real time communication, the other person or spectator can access “any picture taken” of the spectator. In conformance with other areas of the specification, “any picture taken” refers to

past, “taken,” images of the spectator. See, for example, use of identical language in paragraphs 0055, 0061, and 0068.

Further, in line with the Examiners reasoning, because there are unlikely to be sufficient cameras in a football stadium to view every single person simultaneously, the system cannot possibly accommodate web-user driven imaging in real time of every single spectator. Thus, the only interpretation of paragraph 0074 that makes sense, and comports with the reminder of the specification, is that “real time” refers to the communication, and “any picture taken” refers to past images of the spectator taken by the cameras.

The Examiner relies solely on Schniberg et al. to provide the teaching of “directing an image capture device toward the seating location” in response to input of a seating location. As shown above, Schniberg et al. does not teach or suggest taking an image of a specified seating location in response to entering a seating location, but rather images all seats preemptively, and displays already taken images in response to identification of a seating location.

In combination with Applicants prior-submitted comments, Applicants submit no prima facie case of obviousness has been established by the Examiner because the cited combination of references does not teach, disclose, or suggest every feature of the claimed invention. For at least the above reasons, the rejection of claims 8-11 should be reversed.

## 2. Claims 12-15

Applicants rely on the arguments previously submitted in the Appeal Brief with regard to the combination of Blank, Gluck, and Schniberg et al. In particular, Applicants submit none of the references teach or suggest at least uploading a digital image and forming a composite image including at least one image of the entertainment event or participants therein combined with at least one customer image captured by an image capture device or an uploaded digital image.

For at least the above reasons, the rejection of claims 12-15 should be reversed because none of the references, alone or in any combination, teach, disclose, or suggest all the features of claims 12-15.

B. Rejection of claim 16 under 35 U.S.C. §103(a) over Blank, US Patent 5,469,536, in view of Gluck, US Patent 6,532,345, and further in view of Showghi et al., US Patent 6,473,739.

Applicants rely on the arguments previously submitted in the Appeal Brief with regard to the combination of Blank, Gluck, and Showghi et al. None of the references explicitly teach, disclose, or suggest that a customer can use a device to view images of the participants in the entertainment event or of the customer viewing the event, or to select a desired image or images, or to select a desired image product representative of the desired image or images while seated at a seating location as set forth in claim 16. For at least the above reasons, the rejection of claim 16 should be reversed.

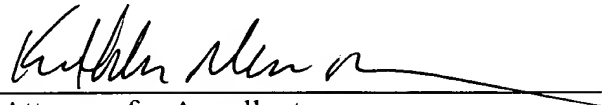
**Summary**

With regard to the rejection of claims 1-7, Weston et al. does not teach or disclose a seating location particular to a customer, a customer inputting information on a seating location of the customer at an entertainment event, or supplying images of at least the customer at the seating location while viewing the entertainment event. With regard to the rejection of claims 8-15, the combination of Blank, Gluck, and Schniberg et al. does not disclose or suggest at least selecting an imaging service prior to attendance at an event, or an imaging service selection including entering seat information representative of a customer seating location for use in directing an image capture device toward the seating location. With regard to the rejection of claim 16, the combination of Blank, Gluck, and Showghi et al. does not disclose or suggest at least offering an interactive selection session to the customer to permit the customer, while seated at the seating location, to select a desired image or images from the displayed images and select a desired image product representative of the desired image or images. For at least the reasons discussed herein and in the Appeal Brief filed September 15, 2006, all of the above rejections should be reversed.

**Conclusion**

For the above reasons, Appellants respectfully request that the Board of Patent Appeals and Interferences reverse the rejections set forth by the Examiner and mandate the allowance of Claims 1-16.

Respectfully submitted,



Attorney for Appellants  
Registration No. 40, 101

Kathleen Neuner Manne/kjw  
Telephone: 585-722-9225  
Facsimile: 585-477-1148  
Enclosures

If the Examiner is unable to reach the Appellant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.

**Appendix I - Claims on Appeal**

1. (Previously Presented) A method of offering imaging services to a customer, the method comprising:

offering at least one imaging service to a customer for selection prior to the customer's attendance at an entertainment event or while the customer is at the entertainment event;

recording an imaging service selected by the customer and assigning an identification code to the customer selection, said identification code including at least information on the selected imaging service and information inputted by the customer on a seating location of the customer at the entertainment event; and

supplying images to the customer based on the selected imaging service, said images including images of participants in the entertainment event and images of at least the customer at said seating location while viewing the entertainment event.

2. (Original) A method according to claim 1, wherein said step of supplying images to the customer includes the steps of:

setting up remotely controlled cameras throughout a venue at which the entertainment event is to take place; and

using the cameras to take photographs of the event as it occurs and photographs of participants in the event as it occurs based on the selected imaging service.

3. (Original) A method according to claim 2, wherein said step of supplying images to the customer further includes the step of:

using the cameras to take photographs of the customer at his/her seating location while viewing the event based on the seating location information.

4. (Original) A method according to claim 1, wherein said information on the selected imaging service includes information reflective of a customer preference with regard to the participants at the entertainment event.

5. (Original) A method according to claim 3, wherein said photographs are taken at an appropriate moment of capture which is reflective of a period of high volume and/or excitement during the entertainment event.

6. (Original) A method according to claim 1, wherein said seating location of the customer at the entertainment event is determined by scanning a ticket.

7. (Original) A method according to claim 1, wherein said selections of images of the entertainment event are made by the customer at a location remote from the site of the entertainment event.

8. (Previously Presented) An imaging services kiosk comprising:  
an imaging services display section adapted to display a menu of imaging services to a customer; and  
a customer input section adapted to permit a customer to select, either prior to attendance at an entertainment event or while in attendance at the event, an imaging service from the menu of imaging services and enter seating information representative of a seating location of the customer at the entertainment event for use in directing an image capture device toward the seating location, such that said selected imaging service comprises creating images for the customer which includes at least one image of participants at the entertainment event and at least one image of the customer while viewing the entertainment event.

9. (Original) An imaging services kiosk according to claim 8, wherein said customer input section is further adapted to permit the customer to input preferences with regard to the participants at the entertainment event.

10. (Previously Presented) An imaging services kiosk comprising:  
an imaging services display section adapted to display a menu of imaging services to a customer, said imaging services being associated with an entertainment event which will be attended by the customer;

an image capture device which is adapted to capture an image of the customer; and

a customer input section adapted to permit the customer to select, either prior to attendance at an entertainment event or while in attendance at the event, an imaging service from the menu of imaging services and enter seating information representative of a seating location of the customer at the entertainment event for use in directing the image capture device toward the seating location, such that said selected imaging service comprises creating a composite image which includes at least one image of the entertainment event and/or at least one image of participants at the entertainment event combined with the customer image captured by the image capture device.

11. (Original) An imaging services kiosk according to claim 10, wherein said customer input section is further adapted to permit the customer to input preferences with regard to the participants at the entertainment event.

12. (Previously Presented) An imaging services kiosk comprising:  
an imaging services display section adapted to display a menu of imaging services to a customer, said imaging services being associated with an entertainment event which will be attended by the customer;

an image capture device which is adapted to capture an image of the customer;



an input port to permit an uploading of customer digital images into said kiosk; and

a customer input section adapted to permit the customer to select, either prior to attendance at an entertainment event or while in attendance at the event, an imaging service from the menu of imaging services and enter seating information representative of a seating location of the customer at the entertainment event for use in directing the image capture device toward the seating location, such that said selected imaging service comprises creating a composite image, said composite image including at least one image of the entertainment event and/or at least one image of participants at the entertainment event combined with at least one of the customer image captured by the image capture device or the uploaded digital image.

13. (Original) An imaging services kiosk according to claim 12, wherein said customer input section is further adapted to permit the customer to input preferences with regard to the participants at the entertainment event.

14. (Original) An imaging services kiosk according to claim 12, wherein said customer input section is further adapted to permit the customer to select images of the participants in the entertainment event.

15. (Original) An imaging services kiosk according to claim 12, wherein said customer input section is further adapted to permit the customer to select images of himself in the entertainment event.

16. (Previously Presented) A method of displaying images and offering imaging services to a customer while at an entertainment event, the method comprising:

displaying images to a customer at an entertainment event on an interactive display screen accessible at a seating location of the customer, said displayed images comprising at least one of images of participants in the

entertainment event and images of the customer while viewing the entertainment event; and

offering an interactive selection session to the customer to permit the customer, while seated at the seating location, to select a desired image or images from the displayed images and select a desired image product representative of the desired image or images.